

REMARKS

Applicant respectfully requests reconsideration of this application. Claims 1, 2, 4, 5, 13, 16-23, 27, 28, 32 and 34-36 are pending and rejected in the application. Claims 1 and 28 have been amended. Claims 37 and 38, dependent upon claims 1 and 28, respectively, have been newly added. No new matter has been added.

Applicant reserves all rights with respect to the applicability of the Doctrine of Equivalents.

The Rejection Under 35 U.S.C. § 112

The Examiner rejected claims 1 and 28 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Claims 1 and 28 have been amended. Thus, Applicant respectfully submits that the written description rejection has been overcome.

The Rejection Under 35 U.S.C. § 103

The Examiner rejected independent claims 1, 18 and 28 under 35 U.S.C. § 103(a) based on U.S. Patent Pub. No. 2002/0029384 of Griggs ("Griggs") in view of U.S. Patent No. 6,774,926 of Ellis et al. ("Ellis") and further in view of U.S. Patent Pub. No. 2005/0204387 of Knudson et al. ("Knudson"). Applicant respectfully disagrees.

Griggs as Prior Art

Griggs does not antedate the present application; the two provisional applications (Nos. 60/219,857 & 60/233,581), on which Griggs claims priorities, antedate the present application. Thus, only the portion commonly disclosed in both Griggs and the two provisional applications qualifies for prior art under 35. U.S.C. §§ 102(e) & 103(a).

Provisional Application No. 60/219,857 contains a business plan and two technical disclosures. One disclosure is titled "Video Overlay on a Digital Stream," and the other is titled "Mechanism for Digital Video Rental, Distribution, and Caching via Broadband Infrastructure" ("Video Rental Mechanism"). Provisional Application No. 60/233,581 contains a technical disclosure titled "Mechanism for a Customized Multimedia Content Guide based on User Preference" ("Customized Guide Mechanism").

Discussion of Rejections

The two provisional applications do not disclose or suggest, among other things, the customer channel of claim 1. No part of the business plan, as well as the technical disclosure, "Video Overlay on a Digital Stream," contains a description regarding the functionality of claim 1.

The remaining technical disclosures, Customized Guide Mechanism Video

Rental and Mechanism Customized Guide Mechanism, do not disclose or suggest the custom channel of claim 1, either. Customized Guide Mechanism relates to how to provide a customized multimedia content *guide*, not the delivery of the content data themselves or a custom channel. Video Rental Mechanism fails to disclose or suggest any custom channel as well. Please note that the connection established between Media Transport System Server (9) and Media Manager (3) for streaming a video in Video Rental Mechanism is not an equivalent of the custom channel of claim 1.

In addition, the provisional applications do not disclose or suggest “providing a program guide ... to enable a customer to create a custom channel ... *by specifying a viewing time for the selected program*; receiving input from the customer including ... *the specified viewing time*,” as recited in claim 1.

None of the terms, ‘preference,’ ‘choosing criteria,’ and ‘provisioning information’ disclosed in Customized Guide Mechanism includes or suggests a viewing time specified by a customer as recited in claim 1.

Ellis does not cure the deficiencies of Griggs. The personal TV channels in Ellis are not an equivalent of the custom channel of claim 1. The custom channel of claim 1 is created *by the customer* and delivered to *the customer* (for the customer to watch the self-created channel). In other words, the customer in claim 1 plays a role of a provider and consumer at the same time.

By contrast, the viewers in Ellis do not come into play as a provider. The personal TV channels in Ellis are created *by individual contributors as a provider, not by the viewers.* (Fig. 14, and col. 11, ln. 46-49) The viewers merely choose or not the personal TV channels just as they do with the traditional TV channels. (Figs. 9, 10, 11, 12 and 13) Due to this teaching away regarding the creator of a personal TV channel, Ellis cannot disclose or suggest the custom channel of claim 1.

Knudson does not cure the deficiencies of Griggs, either. Contrary to the Examiner's assertion, Knudson does not disclose or suggest "determining whether to include the selected program in the custom channel" as recited in claim 1.

In claim 1, to determine whether a selected program is included to the custom channel, the viewing time is checked, *i.e.*, "determining a selected program conflicts in viewing time with a program previously added to the custom channel." "[I]f the selected program conflicts in viewing time with a program previously added to the custom channel," to resolve the conflicts, conditions are provided for adding the selected program in claim 1:

- (1) "[I]f it is determined to record the selected program or the previously added program for viewing at a different time by the customer," *or*
- (2) if it is determined "to provide simultaneous access to the selected program and the previously added program," *or*

(3) if it is determined “to delete the previously added program from the custom channel.

Otherwise, the selected program will not be included in the custom channel in claim 1.

Knudson does not disclose or suggest any pertinent features of the conflict-resolving operation of claim 1. In Knudson, an “order conflict” is resolved by the user, not by the program guide system. When an order conflict occurs, the user may cancel or confirm the order. (Paras. [0201]-[0203] of Knudson)

If the Examiner decides to keep the position that Knudson discloses the conflict-resolving operation of claim 1 including the conditions of (1) through (3), Applicant respectfully requests that the Examiner provide specific references in Knudson that correspond to features recited in claim 1.

Thus, neither Griggs nor Ellis nor Knudson, nor any combination of these three, discloses or suggests claim 1, Applicant respectfully submits that the rejection with respect to claim 1 under 35 U.S.C. § 103 in view of Griggs, Ellis and Knudson has been overcome.

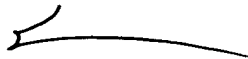
Claims 18 and 28 contain similar, but not identical, limitations compared to the limitations of claim 1. Therefore, at least for the reason stated above, Applicant respectfully submits that the rejection of claims 18 and 28 in view of Griggs, Ellis and Knudson has been overcome.

Claims 2, 4, 5, 13, 16-17, 19-23, 27, 32 and 34-38 depend, directly or indirectly, from one of claims 1, 18 and 28, and thus, include the limitations set forth in their respective base claims. Therefore, at least for the reason discussed above, it is respectfully submitted that the rejection of claims 2, 4, 5, 13, 16-17, 19-23, 27, 32 and 34-38 in view of Griggs, Ellis and Knudson has been overcome.

Applicant, therefore, respectfully submits that the applicable rejections have been overcome.

Please charge any shortages and credit any overages to Deposit Account No. 02-2666. Any necessary extension of time for response not already requested is hereby requested. Please charge any corresponding fee to Deposit Account No. 02-2666.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP



Dated: March 4, 2008

Michael J. Mallie
Reg. No. 36,591

1279 Oakmead Parkway
Sunnyvale, California 94805-4040
(408) 720-8300